

**ORDINANCE NO. 10-1016**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF LAKE HAVASU CITY, MOHAVE COUNTY, ARIZONA, AMENDING TITLE 8 OF THE LAKE HAVASU CITY CODE TO INCLUDE CHAPTER 8.26 ENTITLED "FIREWORKS" TO PROVIDE FOR THE SALE AND RESTRICTED USE OF "PERMISSIBLE CONSUMER FIREWORKS," AS DEFINED BY A.R.S. § 36-1601, AND DECLARING AN EMERGENCY**

**WHEREAS**, the legislature recently amended the state's fireworks statutes, A.R.S. §§ 36-1601 *et seq.*, to provide for the sale of certain "permissible consumer fireworks" in Arizona subject to certain restrictions and limitations; and

**WHEREAS**, under the state's fireworks statutes, as amended, the City may prohibit the use of "permissible consumer fireworks" within City limits; and

**WHEREAS**, the City Council is concerned about the fire hazards posed by the unrestricted use of "permissible consumer fireworks" within the City; and

**WHEREAS**, the Lake Havasu City Fire Marshal recommends against permitting the unrestricted use of "permissible consumer fireworks" within the City because of the fire and injury risks posed by such fireworks; and

**WHEREAS**, in light of the Fire Marshal's recommendations, the Council deems it necessary for the health, safety and welfare of the City and its residents to restrict the use of "permissible consumer fireworks" within City limits; and

**WHEREAS**, the City Council has determined that this action will benefit the community as a whole and is in the best interest of the City; and

**WHEREAS**, the effective date of this legislation is December 1, 2010, therefore it is necessary for the preservation of the public peace, health, safety, and general welfare of the municipality that this ordinance be adopted as an emergency measure in order for it to take effect prior to December 1, 2010.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of Lake Havasu City, Arizona, as follows:

SECTION ONE. That Title 8 of the Lake Havasu City Code be amended to include Chapter 8.26 entitled "Fireworks" as follows:

**CHAPTER 8.26 FIREWORKS.**

**§ 8.26.010 DEFINITIONS.**

A. In this Section, unless the context otherwise requires:

1. *Consumer firework* means those fireworks defined by A.R.S. § 36-1601, as amended.
2. *Display firework* means those fireworks defined by A.R.S. § 36-1601, as amended.
3. *Fireworks* means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, that is a consumer firework, display firework or permissible consumer firework as defined by A.R.S. § 36-1601.
4. *Novelty items* means federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers, and certain toys as defined in A.R.S. § 36-1601.
5. *Permissible consumer fireworks* means those fireworks as defined by A.R.S. § 36-1601 that may be sold within the City even though use of those items within the City is prohibited.
6. *Supervised public display* means a monitored performance of display fireworks open to the public and authorized by the Fire Marshal after appropriate inspection(s) to confirm that all safety precautions deemed necessary and prudent by the Fire Marshal for safe deployment of the display are in place.

#### **§ 8.26.020 POSSESSION OF FIREWORKS PROHIBITED; EXCEPTIONS.**

A. No person shall possess fireworks within the City except as follows:

1. Persons may possess novelty items.
2. Persons at least sixteen (16) years of age or older may possess permissible consumer fireworks.

#### **§ 8.26.030 USE OF FIREWORKS PROHIBITED; EXCEPTIONS.**

A. The use, discharge, or ignition of fireworks within the City is prohibited except as follows:

1. Novelty items may be used within the City. Sparklers greater than sixteen inches in total length are prohibited.
2. Permissible consumer fireworks may be used only on the 4<sup>th</sup> of July.

3. Supervised displays of fireworks by a licensed fireworks contractor and shooter may be used within the City after proper inspection, permitting, and authorization by the Fire Marshal or designee. Such displays shall be of a character and so located, discharged or fired, as to not endanger persons, animals, or property. The Fire Marshal or designee has authority to impose conditions on any such display and to decline to authorize, or revoke authorization, of any public display of fireworks during time periods when High Fire Danger Warnings are in effect. Failure to comply with the requirements issued by the Fire Marshal for a public display of fireworks is punishable as provided in this Section and the applicable rules and regulations of the State Fire Marshal.

#### **§ 8.26.040 SALE OF FIREWORKS PROHIBITED; EXCEPTIONS.**

A. Sale of fireworks within the City is prohibited with the exception of novelty items and permissible consumer fireworks, which may be sold pursuant to all applicable Lake Havasu City Code provisions.

B. No person shall sell, permit, or authorize the sale of permissible consumer fireworks to a person who is under sixteen (16) years of age or to any person or entity prior to the effective date of A.R.S. §§ 36-1601 *et seq.*, as amended.

C. All sales of permissible consumer fireworks shall conform to the requirements of state law and to the rules and regulations adopted by the State Fire Marshal pursuant to A.R.S. §§ 36-1601 *et seq.* Failure to comply with this Subsection is a criminal offense punishable as a class 1 misdemeanor.

#### **§ 8.26.050 SIGNAGE REQUIRED FOR SALE OF FIREWORKS.**

A. Prior to the sale of permissible consumer fireworks, seller shall prominently display signs stating the following:

1. The use of fireworks (except novelty items defined by City Code) is strictly prohibited within the City; and

2. Permissible consumer fireworks may be used only on the 4<sup>th</sup> of July; and

3. Consumer fireworks authorized for sale under state law may not be sold to persons under the age of sixteen (16).

B. Signs required under this Subsection shall be placed at each cash register and in each area where fireworks are displayed for sale and shall conform to the rules and regulations of the State Fire Marshal adopted pursuant to A.R.S. § 36-1609. The required verbiage and sign specifications shall be posted on the City's website and shall be available at the City Clerk's office. Failure to comply with this Subsection is a criminal offense punishable as a class 1 misdemeanor.

#### **§ 8.26.060 ENFORCEMENT.**

The Fire Marshal, or designee, or the City Attorney may issue civil complaints to enforce civil violations of this Section and may also issue a notice of violation specifying actions to be taken and the time in which they must be taken to avoid issuance of a civil complaint. Persons found responsible for civil violations of this Section shall be subject to fines, an administrative fee then in effect, restitution (if applicable) and any other remedies available under applicable law. Unless otherwise stated, a violation of this Section shall be considered a civil violation. A City police officer or the City Prosecutor may issue criminal complaints to enforce violations of this Section designated as class 1 misdemeanors.

#### **§ 8.26.070 EMERGENCY RESPONSE; LIABILITY.**

A. A person who uses, discharges, or ignites permissible consumer fireworks or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this Section is prima facie evidence of liability under this Subsection.

B. The expenses of an emergency response include all reasonable costs directly incurred by public agencies that make an emergency response to the incident. Such expenses constitute a debt against the person liable for those expenses pursuant to subpart 1 of this Subsection. The liability imposed under this Subsection is in addition to, and not in limitation of, any other liability that may be imposed.

SECTION TWO. That all other Chapters, Articles, and Sections of the City Code, not herein amended, shall remain in full force and effect.

SECTION THREE. That, if any provision of this Ordinance is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

SECTION FOUR. This ordinance is declared to be an emergency measure in accordance with City Code Section 2.04.445(C) necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality.

SECTION FIVE. That this Ordinance shall be effective thirty (30) days after its passage and approval according to law.

**PASSED AND ADOPTED** by the City Council of Lake Havasu City,  
Arizona, this 26th day of October, 2010.


APPROVED:

  
Mark S. Nexsen, Mayor

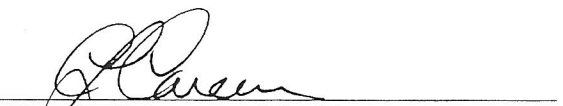
ATTEST:

  
Carla Simendich, City Clerk

APPROVED AS TO FORM:

  
Paul Lenkowsky, City Attorney

REVIEWED BY:

  
Charlie Cassens, City Manager